

MEMO ENDORSED

February 25, 2011

Martin Alexander  
2506 S. Schenley Ave.  
Youngstown, O.H. 44511  
Oldbway42@hotmail.com  
(213) 924-9965

Via Facsimile Transmission

Hon. James C. Francis; Magistrate Judge  
U.S. Southern District Court NY  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007  
Fax No.: (212) 805-7930

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RE: Civil Action No. 10-civ-5613 (PAC) (JCF)  
Alexander v. Murdoch, et al

Dear Hon. Judge Francis:

I am writing to respectfully request an extension of time to respond to Defendants' response to the amended complaint in the above referenced matter. The Court has previously set a deadline of February 28 for Plaintiff to respond to Defendants' motion to dismiss.

This is Plaintiff's first request for an extension to respond to this motion and fifth request for an extension, overall. Defense attorney Dale M. Cendali, Esq. has requested extensions five separate times for a total of three requests on behalf of each of the served U.S. Defendants, except CBS. Ms. Cendali has requested one extension on behalf of the international Defendants. Ms. Cendali has requested one extension for CBS, and Defense attorney Joseph F. Richburg, Esq. requested three extensions on behalf of CBS for a total of four requests for extensions of time on behalf of CBS. All of the Defendants' aforementioned requests for extensions of time were granted. Plaintiff has contacted Defense attorney Melanie Bradley, Esq. and obtained her consent regarding this request for an extension of time, so long as Defendants deadline to reply is April 18, so as not to conflict with Counsel's upcoming three (3) week trial.

Plaintiff was served voluminous materials prepared by a team of defense attorneys, paralegals, and secretaries including, a thirty-eight (38) page declaration, a memorandum of law totaling forty (40) pages, and multi-lith materials consisting of judicial opinions totaling three-hundred and seven (307) pages, plus fourteen (14) DVD's containing the entire first season and 10 episodes from the second season of "Modern Family." In addition Defendants cite other opinions, copies of which were not voluntarily provided, so plaintiff must find them himself. An extension is necessary, in order for Plaintiff to adequately review all of the aforementioned materials and respond directly to all of Defendants' arguments and cite to the record.

In addition, Plaintiff had hoped adding more detailed, factual allegations to the amended complaint would lead Defendants to acknowledge more similarities between the works at issue. However, Defendants did not make as many concessions as they perhaps should have, making it a much more time consuming task for plaintiff to respond than it would be otherwise. Plaintiff has also noticed Defendants' memorandum contains partial misstatements and/or omissions of law, again making it a much more time consuming task for Plaintiff to respond than it would be otherwise. Clarification of misstatements/omissions will be helpful to the court in reaching its determination. Plaintiff also needs additional time to consider possibly stipulating to some of Defendants' arguments which may appear to have some validity and this would certainly promote judicial efficiency, something Ms. Cendali has indicated a desire to do in the past. Also, granting this extension will not cause undue delay.

Lastly, Plaintiff will need to request an extension on the page limitation to adequately respond to Defendants' pleadings. It is difficult to gauge at this time exactly how much of a page extension will be needed.

For all the foregoing reasons, Plaintiff is requesting an extension of twenty-one (21) days from February 28, 2011, in order to finish thoroughly reviewing and adequately responding to all of Defendants' voluminous materials. To that end, Plaintiff requests an extension until March 21, 2011 to serve an opposition motion and any other appropriate response to which Defendants shall reply by April 18, 2011. //

Respectfully Submitted,

/s/ Martin Alexander

Martin Alexander  
2506 S. Schenley Ave.  
Youngstown, O.H. 44511  
(213) 924-9965  
Pro-Se

2/28/11  
Application granted.  
SO ORDERED.  
James C. Francis IV  
USMJ

CC: Dale M. Cendali, Esq.  
Kirkland & Ellis, LLP  
Citigroup Center  
153 East 53rd Street  
New York, New York 10022-4611  
(via e-mail: dale.cendali@kirkland.com)  
(via e-mail: melanie.bradley@kirkland.com)